

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18254 of 2018

=====

Dr. Arvind Kumar Alias Aravind Kumar Son of Late Shiv Nandan Kumar,
Presently residing at 401, Deva Tower-1, Deva Nagar, Ulao, Police Station-
Begusarai, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. Lalit Narayan Mithila University through its Registrar, Kameshwarnagar, Darbhanga.
4. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
5. Registrar, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
6. Finance Officer, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
7. Principal, Swargiya Bishwanath Singh Sharma College, Begusarai Earlier known as Cooperative College

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Gyanand Roy, Adv.
For the State	:	Smt.Binita Singh -Sc28
For the University	:	Mr. Md. Nadim Seraj, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 10-10-2022

1. Heard the parties.

2. The petitioner has preferred this writ petition praying for grant of promotion to the rank of Lecturer (Selection Grade)/ Associate Professor in Botany w.e.f. 27th July, 2003 in the admissible pay band under the Career Advancement Scheme.

3. The brief facts which require to be considered are that the petitioner was appointed as a Demonstrator on 25th August, 1972 initially in the Cooperative Evening College, Begusarai. He was regularly appointed as a Demonstrator, Botany after having been selected by the University Service Commission on 09.12.1977. The said College became a Constituent College of Lalit Narayan Mithila University on 29th July, 1982 and the petitioner continued as a Demonstrator in the Constituent College. It has been stated that he was promoted provisionally on the post of Lecturer on 21st July, 1986 and has been continuously teaching subject of Botany in the College. Vide order dated 23.05.1998, the petitioner was promoted on the post of Lecturer w.e.f. 24th September, 1985 subject of Botany and placed in the regular pay scale. He was further granted senior scale vide order dated 30.03.2011 w.e.f. 27th July, 1998 by applying the provisions of the Career Advancement Scheme. The case of the petitioner was to be considered for promotion to the rank of Lecturer (Selection Grade) in Botany. However, the Screening Committee vide its Minutes dated 24.2.2018 rejected his candidature for consideration on the ground that it is a case of a Demonstrator.

4. Learned counsel for the petitioner submits that the

petitioner having already been appointed as a Lecturer on substantive post w.e.f. 24.09.1985, cannot be ousted from consideration solely on the ground that his initial appointment was on the post of Demonstrator.

5. Learned counsel submits that the petitioner has already been granted senior scale as a Lecturer under the Career Advancement Scheme and the non-consideration by the Committee is, therefore, illegal and unjustified.

6. Learned counsel appearing for the University has supported the Minutes of the Screening Committee. He submits that the case of the petitioner could not be considered as he was originally holding the post of Demonstrator.

7. Learned counsel relies on one order passed by the Hon'ble Supreme Court with respect to the Lab Assistant, who were designated as Demonstrator, wherein the Hon'ble Apex Court has observed that those who were designated as Demonstrators shall continue to hold the status, rank and pay which they were receiving as Demonstrators.

8. I have considered the aforesaid submissions of the respective counsels and find that the case of the petitioner has wrongfully been denied consideration for promotion to the post of Lecturer (Selection Grade) in Botany subject under the

Career Advancement Scheme, 1998.

9. Admittedly, the petitioner had already been considered earlier for promotion to the rank of Lecturer (Senior Scale) in Botany subject under the Career Advancement Scheme. Thus, for all intents and purposes, he was considered as a Lecturer and treated as eligible to consideration for promotion under the Career Advancement Scheme. The Screening Committee has thus fallen in error in not considering his case based on the ground that he was originally holding the post of Demonstrator.

10. This Court also does not accept the contention raised by the learned counsel for the respondents University as the Judgment cited namely order passed in Civil Appeal No (S)6178-6181 of 2015 (Durga Prasad Singh & Ors. Vrs. State of Bihar & Ors.) is of no relevance with reference to the present case. The said Judgment/order passed by the Hon'ble Supreme Court is with respect to the Lab Assistants, who were granted designation of Demonstrator subsequently. It is the said claim of the Lab Assistants to be granted the pay etc. of that of Demonstrator and nowhere relates to the Career Advancement Scheme.

11. This Court also finds that the petitioner had been

already regularly promoted in the year 1985 as a Lecturer. The Bihar State Universities (Amendment and Validation) Act, 2012, whereby the re-designation of Lab Assistants to Demonstrator was done, has no application retrospectively on those Demonstrators who were promoted in the year 1985 or thereafter. In other words 2012 Act would not have any retrospective effect.

12. Keeping in view above, this Court finds that the Committee was required to consider the case of the petitioner on merits and examine the record for the purposes of grant of promotion to the rank of Lecturer (Selection Grade) in Botany under the Career Advancement Scheme, 1998 and make its recommendations accordingly.

13. Since, the said Committee has failed to conduct its duty for which it was formed, the Vice-Chancellor is now directed to continue a fresh Screening Committee under the Career Advancement Scheme, 1998 for making recommendations for promotion of Lecturer (Senior Scale) to the rank of Lecturer (Selection Grade) and consider the case of the petitioner on merits and pass orders accordingly on the basis of recommendations of such Screening Committee.

14. The proceedings of the meeting of the Screening

Committee dated 24.02.2018 placed on record are accordingly quashed and set aside with reference to the petitioner.

15. The writ petition is accordingly allowed.

16. The exercise as directed above, shall be conducted within a period of four months. No costs.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 21

U			
---	--	--	--